

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 967 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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SUNEVKALLA GRAM SAMAST TRUST

Versus

STATE OF GUJARAT

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Appearance:

MR DHIRENDRA MEHTA for Petitioner

MR SP DAVE, for Respondent No. 1, 2

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 14/02/97

ORAL JUDGEMENT

The petitioner before me, happens to be Sunevkalla Gram Samast Trust. The question to be decided is in respect of the area of the land which the petitioner-Trust would be entitled to hold as the permissible ceiling under the Gujarat Agricultural Lands Ceiling Act, 1960. The first order would be the orders

passed by the Mamlatdar and ALT (Ceiling), Bharuch, in Ceiling Case No. 1176/778 under which the area of 115 acres-35 gunthas of land was declared to be the excess land. There has been various tours upto to the Gujarat Revenue Tribunal and the remands, but it appears that, at no point of time, the authorities were industrious enough to decide at least 13 issues raised by the petitioner-Trust. Unfortunately, when the matter went before the Gujarat Revenue Tribunal on the last occasion, the revision petition came to be dismissed by the cryptic orders dated September 27, 1996. The learned Member of the Tribunal was satisfied by saying that, the authorities below have considered the case of the petitioner-Trust and that looking to the fact that there has been a concurrent finding of the Courts below, the learned Member of the Gujarat Revenue Tribunal does not deem it fit and proper to examine the concerned questions. This is the way in which the Gujarat Revenue Tribunal has preferred to decide the whole matter.

It should be pointed out that, at least 13 questions of law and facts including the question regarding the units for all the male members of the village was pending before the authorities including the Gujarat Revenue Tribunal. Even at the time of hearing of the revision petition before the Tribunal the petitioner-Trust had submitted the written arguments. Unfortunately, the Gujarat Revenue Tribunal has not cared to decide all the questions and has preferred to conclude the entire chapter by saying that, the learned Member would agree with the concurrent findings of the Courts below and that the further investigation into the matter at the revisional level was not required.

Upon hearing learned Counsel Mr. Mehta for the petitioner and learned Govt. Counsel Mr.S.P.Dave, it appears that there is absolutely no alternative for me, but to remand the matter to the Gujarat Revenue Tribunal with the direction to decide all the questions being raised by the petitioner including the question of the entitlement of the units. The petition, therefore, stands allowed. The impugned orders of the Gujarat Revenue Tribunal stand quashed and set aside. The matter is remitted to the Gujarat Revenue Tribunal with a direction to decide the same afresh after affording a reasonable opportunity of being heard to the petitioner. Till that is done, and thereafter also, for a period of two weeks, the status-quo qua the possession of the land in question shall be maintained. Rule is made absolute accordingly, with no order as to costs.

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